

Repair work performed under a warranty may or may not be a taxable sale of service. See 86 Ill. Adm. Code 140.141 for explanations of the tax consequences of warranty repair work. (This is a GIL).

September 11, 2002

Dear Xxxxx:

This letter is in response to your letter dated May 31, 2002 that we received on June 20, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I am requesting a clarification of the sales tax implications of a procedure that follow in regards to certain products replaced per warranty agreements.

First, my company is a distributor of underground water related materials; pipe, valves, hydrants, meters and various related fittings. As a rule, we do not manufacture or alter any of the products we sell. We have several locations in Illinois.

We sell our products to municipalities or to contractors. Certain products, in specific, water meters, have a manufacturer's warranty that passes through to our customers. Our customers return defective meters to us, for replacement of either the entire meter or the defective part. This is a no charge exchange of product. The replacement materials come from our on hand stock inventory. Our customers benefit by getting the replacement much sooner. They would have to wait two weeks or more for the product to be shipped from the manufacturer.

We, in turn, bill the manufacturer for the defective products. The manufacturer pays us in the form of a credit memo, which we can use to reduce payments to them for normal, on going purchases. The manufacturer rarely takes possession of the defective stock. The defective parts are normally disposed of.

Our question relates to the billing of the defective product to the manufacturer. The manufacturer is not reselling the product, nor is it being used to make another product by the manufacturer. Could our billing to the manufacturer be considered a taxable transaction?

If you need further information, I can be reached at the telephone number above. Please send a response to my attention.

You state that certain of your products have a manufacturer's warranty that passes through to your customers. For purposes of this response, we are assuming these are express manufacturer's warranties.

When an item of tangible personal property is sold at retail, an express warranty from the manufacturer is often included in the selling price. This express warranty obligates the manufacturer to correct defects in materials and workmanship during a specified timeframe. When repairs are made under the terms of an express warranty, no tax is due and this is true whether the manufacturer makes the repairs or whether the manufacturer pays someone else to make the repairs. This is because the warranty (and the work to be done under the warranty) was included as part of the retail selling price of the item and, as such, was subject to Retailers' Occupation Tax and Use Tax when the item was sold at retail. See 86 Ill. Adm. Code 140.141(b).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
Enc.